



Via Email

July 17, 2020

Barbara Neal
Executive Director
Vermont E-911 Board
100 State Street
Montpelier, VT 05620-6501

Re: Revised Outage Notification Rule for Review and Feedback

Dear Barbara:

On July 9, 2020, the Vermont Enhanced 911 Board ("E-911 Board") sent an email to stakeholders notifying them that California¹ had adopted rules it considers as satisfying the contingency in S. 301 for the E-911 Board to initiate its rulemaking on outage reporting. The E-911 Board provided a revised draft of its previously proposed rule that incorporated the California outage reporting "zip code" thresholds and requested comments.² Comcast and Charter (the "Companies") very much appreciate the opportunity to comment on the E-911 Board's revised outage notification rules.

As a preliminary matter, Comcast and Charter recognize the E-911 Board's responsiveness to originating carrier concerns that having a patchwork of reporting requirements across the country would be administratively burdensome and not in the public interest. The Companies request that the E-911 Board be cognizant that California has only adopted emergency outage reporting rules and that final rules will be forthcoming in the future resulting in the possibility of a moving target.

¹ The California Governor's Office of Emergency Services ("CAL OES") issued emergency regulations on outage reporting on July 9, 2020.

² On July 1, 2020, Governor Scott signed S. 301. Section 4 of S. 301 amended §25 of 2019 Acts and Resolves No. 79. Section 25 now requires the E-911 Board to (a) adopt a rule establishing protocols for the E-911 Board to obtain information or be apprised of system outages applicable to wireless service providers, to providers of facilities-based, fixed voice service that is not line-powered and to electric companies for the purpose of enabling the E-911 Board to assess 911 service availability during such outages; and (b) "initiate the rulemaking" when one or more states with a combined population of 20 million residents adopts a reporting threshold for wireless service providers that is lower than the threshold required in specified federal rules.

Affected companies are adjusting outage detection and reporting processes for the “zip code” based thresholds in the California emergency regulations and are submitting or preparing to submit outage reports on the standard California templates. The California emergency regulations and the E-911 Board’s revised draft regulations are not identical. As the Companies refine and standardize responses to California’s emergency regulations, we would appreciate an opportunity to work with the E-911 Board on the details of outage reports in Vermont and how they are to be submitted.

With respect to the E-911 Board’s revised draft regulations, Comcast and Charter support the language in §7.1 retained in the revised proposed rules under which mandatory outage reporting will begin as soon as originating carriers and electric power companies are technically capable of providing the information but no later than six months after adoption of the final rule. As indicated above, the Companies require this time to further refine the tools for outage detection and reporting using the California “zip code based” thresholds for Vermont, and the date when mandatory reporting begins must be known with certainty.³

The Companies recommend modifying §3.4.1 of the revised proposed rules. S. 301 defines an outage to include any loss of E-911 calling capacity caused by a telecommunications provider’s network failure. The definition of an Originating Carrier Outage in §3.4.1 of the revised draft rules should be changed by eliminating the words “but is not limited to” in the second sentence which could be interpreted more broadly than intended in the statute to require the reporting of outages not caused by an originating carrier’s network failure.⁴

Finally, originating carrier outage reports to the E-911 Board must be presumptively confidential. Both the Federal Communications Commission and California recognize the importance of maintaining the confidentiality of outage reports given that public release of such data would raise significant network infrastructure security and competitive concerns.⁵ Further, requiring originating carriers to request confidentiality of individual reports, or mark portions thereof for confidential treatment will be extremely burdensome for originating carriers, and in turn, for the E-911 Board that will have to consider the markings in responding to public records requests.

If the Board declines to treat outage reports as confidential in their entirety, then it should not require outage reports to contain the precise “location of the affected facility” such as a street address (§4.1.2), public release of which could pose a threat to network security. Providing a town location should be deemed sufficient. Also, restoration of service reports (§4.1.3) should not contain the call back number(s) of any subscribers that attempted to reach 911, but were unable to do so, due to the outage, if available. The Companies have no objection to confidentially providing

³ Section 4(b) of S. 301 clearly directs the E-911 Board to initiate the rulemaking upon the occurrence of a specific contingency and to file a rule with the Secretary of State not more than 60 days after the rulemaking has commenced. If the E-911 Board’s email of July 9, 2020 constituted the initiation of the rulemaking, then the deadline for filing with the Secretary of State is September 8, 2020.

⁴ S.301 removed the words in §25 that included lack of function of a telecommunications subscriber’s backup-power equipment from the definition of an outage, and reporting based on that removed language cannot be required. The phrase “including but not limited to” also should be removed from §3.4.2.

⁵ CA Gov. Code §53122(e); 47 C.F.R §4.2.

the call back numbers to the E-911 Board if separately needed on an individual basis and requested under §4.3.⁶ However, providing the call back numbers of individual customers for every reported outage is likely unwarranted and should not automatically be included in the restoration report.

Again, Comcast and Charter appreciate the E-911 Board's efforts in drafting revised outage reporting rules in response to S. 301. The Companies will continue to work with the E-911 Board in its development of revised outage reporting rules and would be pleased to respond to any questions.

Respectfully submitted,

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⁶ The same comments apply to §§4.2.2 and 4.2.3 for CMRS.